
OLR Bill Analysis

sSB 114

AN ACT PROHIBITING LANDLORDS FROM REQUIRING TENANTS TO PAY RENT BY ELECTRONIC FUNDS TRANSFER.

SUMMARY:

This bill prohibits landlords (residential or commercial) from requiring that rent or security deposits be paid by electronic funds transfer. The bill defines “electronic funds transfer” as a funds transfer that is initiated through an electronic terminal, telephone, computer, or magnetic tape that orders, instructs, or authorizes a financial institution to debit or credit an account. It does not include any transfer originated by check, draft, or similar paper instrument.

The bill does not exclude leases that contain such a requirement and are entered into before its effective date. Thus, it is unclear how it comports with the Contracts Clause of the U.S. Constitution.

EFFECTIVE DATE: October 1, 2013

BACKGROUND

Contracts Clause

The Contracts Clause of the U.S. Constitution (Article I, Section 10) bars states from passing any law that impairs the obligation of contracts. However, the U.S. Supreme Court has held that claims of a contract clause violation must first undergo a three-step analysis. Courts must determine whether (1) there is a contractual relationship, (2) a change in a law has impaired that relationship, and (3) the impairment is substantial (*General Motors Corp. v. Romein*, 503 U.S. 181 (1992)). If the court determines that the contract has been substantially impaired, it must then determine whether the law at issue has a legitimate and important public purpose and whether the adjustment of the rights of the parties to the contractual relationship was reasonable and appropriate in light of that purpose. A challenged law

will not be held to impair the contract clause if the impairment, although substantial, is reasonable and necessary to fulfill an important public purpose (*Energy Reserves Group v. Kansas Power & Light*, 459 U.S. 400, 411-412 (1983)).

COMMITTEE ACTION

Housing Committee

Joint Favorable Substitute

Yea 12 Nay 0 (03/12/2013)